IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

Debbie Taylor, as administrator of the Estate of Gail Marie Legate, deceased, Plaintiff	)	
vs.	)	Case No. 17-1020
Granite Nursing and Rehabilitation Center, LLC	)	
Defendant.	)	

COMPLAINT

Plaintiff, Debbie Taylor, as administrator of the Estate of Gail Marie Legate, deceased, by and through her undersigned counsel, states as follows on information and belief:

Count I: Nursing Home Care Act

COMES NOW Plaintiff, Debbie Taylor, as Administrator of the Estate of Gail Marie Legate, Deceased, by and through her counsel, and for Count I of her cause of action, states as follows:

1. Plaintiff is a citizen of the State of Illinois.

2. Plaintiff's decedent was a citizen of the State of Illinois at the time of her death.

3. Defendant Granite Nursing and Rehabilitation Center, LLC is a citizen of the State of New York.

   a. Defendant is an LLC.

   b. The two members of the LLC are Norbert A. Bennett and Donald T. Denz, who are listed by the Illinois Secretary of State with an address in Orchard Park, New York.

4. The matter in controversy exceeds the sum or value of $75,000, exclusive of interest and costs.

5. Defendant is and was licensed by the Illinois Department of Public Health under the Nursing Home Care Act, 210 ILCS 45/3-601 *et seq.*, and owned and operated a skilled nursing home facility at 3500 Century Drive, Granite City, IL 62040 prior to the death of Gail Marie Legate, deceased, and continues to own and operate that nursing home, and is therefore within this Court's jurisdiction.

6. This district is "a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred," in that a substantial part of the events or omissions giving rise to the claim occurred in Granite City, Illinois, the location of the nursing home.

7. Gail Marie Legate was a resident of and received continuing nursing home care from Defendant's facility prior to her death on February 17, 2016.

8. Prior to her admission to Defendant's facility, Gail Marie Legate was a patient at Christian Hospital NE, where her diagnoses included paraplegia stemming from a recent injury and treatment therefrom, diabetes, unspecified urinary incontinence, full incontinence of feces, depressive disorder, Chrohn's disease, lactose intolerance, and hypertension.

9. Gail Marie Legate was transferred to Defendant's facility for rehabilitation and medical management on October 6, 2015.

10. The foregoing preexisting conditions made Gail Marie Legate more susceptible to further injury.

11. Defendant knew and should have known of Gail Marie Legate's preexisting conditions upon her admission to Defendant's facility.

12. At all times mentioned herein, the Illinois Nursing Home Care Act was in effect, and 210 ILCS 45/3-601 of the Act states:

"The owner and licensee are liable to a resident for any intentional or negligent act or omission of their agents or employees which injures the resident."

13. At all times mentioned herein Granite Nursing and Rehabilitation Center, LLC, individually and through its agents and employees, had one or more of the following duties to Gail Marie Legate:

(a) to comply with the Nursing Home Care Act;

(b) to refrain from neglecting its residents;

(c) to provide suitable attention and adequate nursing care in accordance with Gail Marie Legate's condition and consistent with current acceptable nursing practice;

(d) to use that degree of skill and learning ordinarily used under the same or similar circumstances by the members of the nursing profession;

(e) to conduct a comprehensive, accurate, and standardized assessment of Gail Marie Legate's current condition;

(f) to prevent its residents from being inflicted with physical or emotional injury or harm;

(g) to provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychological well-being of Gail Marie Legate, in accordance with her comprehensive assessment and plan of care;

(h) to follow and implement physician's orders for Gail Marie Legate;

(i) to thoroughly investigate and document all incidents and injuries suffered by Gail Marie Legate at the facility;

(j) to immediately notify and consult with appropriate medical personnel whenever Gail Marie Legate had a condition that required medical expertise or facilities beyond what could be provided by Granite Nursing and Rehabilitation Center, LLC.

14. At all times mentioned herein, Granite Nursing and Rehabilitation Center, LLC, individually and through its agents and employees, breached one or more of the aforementioned duties owed to Gail Marie Legate by way of one or more of the following negligent acts or omissions, of which it knew or should have known:

(a) failed to provide adequate care and treatment to prevent or treat pressure sores and wounds, when it knew and should have known that Gail Marie Legate was at high risk for pressure sores due to skin desensitized to pain or pressure, decrease in functional ability, impaired mobility, urinary incontinence, bowel incontinence, and other conditions;

(b) failed to provide adequate care and treatment to prevent or treat pressure sores, even after Gail Marie Legate had developed pressure sores and/or decubitus ulcers while she was a resident of Defendant's facility;

(c) failed to provide adequate care and treatment to prevent Gail Marie Legate from becoming dehydrated when its own assessments indicated she was at risk of dehydration;

(d) failed to add or implement interventions listed in its own assessments for the care and prevention of pressure ulcers, when such interventions were appropriate and necessary in light of Gail Marie Legate's conditions;

(e) failed to provide "Nutrition or hydration intervention to manage skin problems" when such interventions were appropriate and necessary in light of Gail Marie Legate's conditions;

(f) failed to provide Gail Marie Legate with the necessary care and services to attain or maintain the highest practicable physical and mental well-being;

(g) failed to properly monitor and document Gail Marie Legate's condition, including but not limited to her food intake, hydration, temperature, vital signs, and pressure sores;

(h) failed to develop and implement an appropriate care plan for Gail Marie Legate;

(i) failed to provide Gail Marie Legate with sufficient fluid intake to maintain proper hydration, strength, and health;

(j) failed to provide Gail Marie Legate with sufficient nutrition to maintain proper hydration, strength, and health;

(k) failed to properly monitor pressure sores that developed on Gail Marie Legate's body;

(l) failed to have the pressure sores that developed on Gail Marie Legate's body properly treated.

(m) failed to keep Gail Marie Legate free from avoidable pressure sores;

(n) failed to diagnose the pressure sore/s that developed on Gail Marie Legate's body and resulted in her developing infection;

(o) failed to appropriately document the nature and extent of the pressure sore/s that developed on Gail Marie Legate's body;

(p) failed to inform Gail Marie Legate's physicians of the existence and/or nature and extent of pressure sore/s that developed on Gail Marie Legate's body;

(q) failed to rotate Gail Marie Legate in her bed at sufficient intervals so as to avoid the formation and degradation of pressure sore/s;

(r) failed to transfer Gail Marie Legate to another facility in a timely fashion or have her evaluated by appropriate medical personnel in a timely fashion when it could no longer meet the needs of Gail Marie Legate;

(s) failed to address the dietary needs of Gail Marie Legate within the acceptable standards of care;

(t) failed to provide Gail Marie Legate with appropriate nursing care and treatment;

(u) failed to have adequate numbers of properly trained nursing personnel, including aids and orderlies, to provide proper care;

(v) failed to have competent nursing staff who have been screened at the time of hiring and monitored throughout employment in order to eliminate unfit personnel;

(w) failed to train its nursing and/or nursing aid staff to care for Gail Marie Legate;

(x) failed to have adequate care planning to ensure that Gail Marie Legate had an individualized care plan that would be followed by the nursing and/or nursing aid staff;

(y) failed to have adequate policies and procedures to assure that personal care was provided to Gail Marie Legate on a uniform and uninterrupted basis;

(z) failed to provide adequate supervision and monitoring of Gail Marie Legate to assure that her health care plan, physician's orders and policies/procedures were implemented and complied with;

(aa) failed to clean Gail Marie Legate in a timely fashion, even after she suffered bouts of urinary and/or bowel incontinence, such that she was forced to lie in urine and feces, and any open wounds became subject to infection;

(bb) failed to monitor and document Gail Marie Legate's intake of fluids and nutrients, or her output of same.

(cc) provided dairy and other food and drink items that were inconsistent with Gail Marie Legate's dietary restrictions;

(dd) failed to give B12 shots at the frequency they were requested by her physicians;

(ee) failed to take adequate measures to keep Gail Marie Legate from developing blood clots in her legs;

(ff) refused to provide Gail Marie Legate with a catheter;

15. One or more the above acts or omissions of Granite Nursing and Rehabilitation Center, LLC, individually and through its employees and agents, was a proximate cause of Gail Marie Legate's injuries and suffering, as more fully described below.

16. As a direct and proximate result of the aforementioned acts or omissions, Gail Marie Legate did experience personal injury to her body as a whole, including but not limited to sepsis, recurrent infections, decubitus ulcers, pressure ulcers, skin breakdown, malnutrition,

dehydration, renal failure, and the other conditions described in the preceding paragraphs, and further experienced:

(a) pain and suffering;

(b) mental anguish;

(c) disfigurement;

(d) physical impairment;

(e) disability; and

(f) loss of a normal life.

17. Gail Marie Legate was not informed by any of Defendant's staff or other employees that any of her injuries had been wrongfully caused prior to her death on February 17, 2016.

18. Gail Marie Legate was not informed by any other medical professional that any of her injuries had been wrongfully caused prior to her death on February 17, 2016.

19. All of the aforementioned occurred prior to the death of Gail Marie Legate, Deceased, on February 17, 2016, subjecting Defendant to liability pursuant to the Illinois Survival Act (755 ILCS 5/27-6) and the Illinois Nursing Home Care Act.

WHEREFORE, Plaintiff, Debbie Taylor, as Administrator of the Estate of Gail Marie Legate, Deceased, prays for judgment in her favor and against Defendant, Granite Nursing and Rehabilitation Center, LLC, in an amount in excess of the jurisdictional limits, for her attorney's fees as allowed by the Nursing Home Care Act, for her costs herein expended, and for such other and further relief as the Court deems just and proper in these circumstances.

COUNT II: Common Law Negligence

COMES NOW Plaintiff, Debbie Taylor, as Administrator of the Estate of Gail Marie Legate, Deceased, by and by and through her counsel, and for Count II of her cause of action, states as follows:

1-11. Plaintiff incorporates by reference as if fully set forth herein paragraphs 1 through 11 of Count I as counts 1 through 11 of this Count II.

12. At all times mentioned herein Granite Nursing and Rehabilitation Center, LLC, individually and through its agents and employees, had one or more of the following duties to Gail Marie Legate:

(a) to comply with the Nursing Home Care Act;

(b) to refrain from neglecting its residents;

(c) to provide suitable attention and adequate nursing care in accordance with Gail Marie Legate's condition and consistent with current acceptable nursing practice;

(d) to use that degree of skill and learning ordinarily used under the same or similar circumstances by the members of the nursing profession;

(e) to conduct a comprehensive, accurate, and standardized assessment of Gail Marie Legate's current condition;

(f) to prevent its residents from being inflicted with physical or emotional injury or harm;

(g) to provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychological well-being of Gail Marie Legate, in accordance with her comprehensive assessment and plan of care;

(h) to follow and implement physician's orders for Gail Marie Legate;

(i) to thoroughly investigate and document all incidents and injuries suffered by Gail Marie Legate at the facility;

(j) to immediately notify and consult with appropriate medical personnel whenever Gail Marie Legate had a condition that required medical expertise or facilities beyond what could be provided by Defendant's facility.

13–17. Plaintiff incorporates by reference as if fully set forth herein paragraphs 14 through 18 of Count I as paragraphs 13 through 17 of this Count II.

18. All of the aforementioned occurred prior to the death of Gail Marie Legate, Deceased, on February 17, 2016, subjecting Defendant to liability pursuant to the Illinois Survival Act (755 ILCS 5/27-6).

WHEREFORE, Plaintiff, Debbie Taylor, as Administrator of the Estate of Gail Marie Legate, Deceased, prays for judgment in her favor and against Defendant, Granite Nursing and Rehabilitation Center, LLC, in an amount in excess of the jurisdictional limits, for her costs herein expended, and for such other and further relief as the Court deems just and proper in these circumstances.

COUNT III: Wrongful Death Act

COMES NOW Plaintiff, Debbie Taylor, as Administrator of the Estate of Gail Marie Legate, Deceased, by and by and through her counsel, and for Count III of her cause of action, states as follows:

1-19. Plaintiff incorporates by reference as if fully set forth herein paragraphs 1 through 19 of Count I as counts 1 through 19 of this Count III.

20. At all times mentioned herein the Illinois Wrongful Death Act was in effect, and 740 ILCS 180/1 of the act states:

Whenever the death of a person shall be caused by wrongful act, neglect or

> default, and the act, neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, then and in every such case the person who or company or corporation which would have been liable if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony.

21. As a direct and proximate result of the aforementioned acts or omissions, Gail Marie Legate did experience personal injury to her body as a whole, including but not limited to sepsis, recurrent infections, decubitus ulcers, pressure ulcers, skin breakdown, malnutrition, dehydration, renal failure, and the other conditions described in the preceding paragraphs, and further experienced:

(a) pain and suffering;

(b) mental anguish;

(c) disfigurement;

(d) physical impairment;

(e) disability; and

(f) loss of a normal life.

resulting in her death on February 17, 2016. Consequently, Gail Marie Legate's next of kin have suffered great losses of a personal and pecuniary nature, including the loss of companionship and society of Gail Marie Legate, subjecting the Defendant to liability pursuant to the Illinois Wrongful Death Act (740 ILCS 180/1 et seq.).

WHEREFORE, Plaintiff, Debbie Taylor, as Administrator of the Estate of Gail Marie Legate, Deceased, prays for judgment in her favor and against Defendant, Granite Nursing and Rehabilitation Center, LLC, in an amount in excess of the jurisdictional limits, for her costs herein expended, and for such other and further relief as the Court deems just and proper in these circumstances.

Respectfully submitted,

ARMBRUSTER, DRIPPS,
WINTERSCHEIDT & BLOTEVOGEL, LLC

By: */s/ Michael Blotevogel*

Michael T. Blotevogel #6282543
Charles W. Armbruster III #6211630
51 Executive Plaza Ct.
Maryville, Illinois 62062
Phone: 618/208-0320
Fax: 800/927-1529
mikeb@adwblaw.com;
charlesa@adwblaw.com
Attorneys for Debbie Taylor